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April 15, 2005

Mail Stop Appeal Brief - Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450


Re: **Application Serial No.:** 10/788,916
Confirmation No.: 7498
Art Unit: 2876
Appellants: Jon Washington, et al.
Title: ATM Network With Cash
Management Arrangement
Docket No.: D-1208

Sir:

Please find enclosed the Appeal Brief of Appellants pursuant to 37 C.F.R. § 41.37 for filing in the above-referenced application.

Please charge the fee required with this filing (\$500) and any other fee due to Deposit Account 09-0428.

Very truly yours,


Ralph E. Jocke
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D-1208

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of)	
Jon Washington, et al.)	
)	
Application No.: 10/788,916)	Art Unit 2876
)	
Confirmation No.: 7498)	
)	
Filed: February 27, 2004)	Patent Examiner
)	Steve Paik
)	
Title: ATM Network With Cash)	
Management Arrangement)	

Mail Stop Appeal Brief - Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

BRIEF OF APPELLANTS PURSUANT TO 37 C.F.R. § 41.37

Sir:

The Appellants hereby submit their Appeal Brief pursuant to 37 C.F.R. § 41.37
concerning the above-referenced Application. This Appeal Brief is in response to the Office
Action dated December 28, 2004.

(i)

REAL PARTY IN INTEREST

The Assignee of all right, title and interest to the above-referenced Application is Diebold, Incorporated, an Ohio corporation.

(ii) RELATED APPEALS AND INTERFERENCES

Appellants, Appellants' legal representative, and assignee believe that there are no related appeals or interferences pertaining to this matter.

(iii)

STATUS OF CLAIMS

Claims 1 and 45-63 are pending in the Application.

Claims rejected: 1 and 45-63

Claims allowed: none

Claims confirmed: none

Claims withdrawn: none

Claim objected to: none

Claims canceled: 2-44

Appellants appeal the rejections of claims 1 and 45-63, inclusive. These rejections were in the Office Action (“Action”) dated December 28, 2004, which was made Final.

(iv)

STATUS OF AMENDMENTS

A final rejection was made December 28, 2004. A Request for Reconsideration (without claim amendment) was filed February 9, 2005 in response to the final rejection. No claim amendments were requested to be admitted after the final rejection. The Advisory Action dated March 11, 2005 indicates that the Request for Reconsideration was considered.

(v) SUMMARY OF CLAIMED SUBJECT MATTER

Concise explanations of exemplary forms of the claimed invention:

With respect to independent claim 1

An exemplary form of the invention is directed to an apparatus. For example, note Figures 1, 27, and 28. The apparatus includes an automated banking machine network that includes a plurality of automated banking machines (e.g., Specification page 58, lines 9-10). Each automated banking machine (10) (e.g., Figure 1; page 14, lines 17-19) includes a plurality of currency cassettes (44, 46, 48, 50), with each cassette operative to hold currency therein (e.g., Figure 1; page 17, lines 6-7). Each cassette (296, 300) includes at least one data indicator (298, 302) (e.g., Figures 27-28; page 55, lines 17-19). Each data indicator (298, 302) includes data representative of a characteristic of cassette currency (e.g., page 58, lines 1-5, 11-14, and 20-22). Each automated banking machine (10) includes at least one cassette reader that is operative to remotely read the data of a data indicator without contact therebetween (e.g., page 53, lines 9-14, 17-18, and 20-21; page 55, lines 4-16; page 58, lines 4-5). The network is operative to track the amount of currency in at least one of the automated banking machines (e.g., page 58, lines 4-5, 11-14, and 20-22).

With respect to independent claim 55

Another exemplary form of the invention is directed to a method. Support in the disclosure for similar claim language has previously been provided. The method includes a step of providing an automated banking machine network including a plurality of automated banking machines. Each automated banking machine (10) includes a plurality of currency cassettes (44, 46, 48, 50; Figure 1). Each cassette (296, 300) includes at least one data indicator (298, 302) (e.g., Figures 27-28; page 55, lines 17-19). Each data indicator (298, 302) includes data representative of a characteristic of cassette currency (e.g., page 58, lines 1-5, 11-14, and 20-22). The method further includes a step of remotely reading the data of the data indicators (298, 302) of at least one automated banking machine (10) (e.g., page 53, lines 9-14, 17-18, and 20-21; page 55, lines 4-16; page 58, lines 4-5). The method also includes a step of determining the amount of currency in at least one of the automated banking machines (e.g., page 58, lines 4-5, 11-14, and 20-22).

With respect to independent claim 63

An exemplary form of the invention is directed to an apparatus. Support in the disclosure for similar claim language has previously been provided. The apparatus includes an automated teller machine ("ATM") network (e.g., Specification page 58, lines 9-10) that includes a host computer and a plurality of ATMs (e.g., page 58, lines 18-22). Each ATM includes an ATM computer (e.g., page 15, lines 9-11; page 58, lines 14-18) and a plurality of currency cassettes (44, 46, 48, 50) operative to hold currency therein (e.g., Figure 1; page 17, lines 6-7). Each cassette (296, 300) includes a data indicator (298, 302) (e.g., Figures 27-28; page 55, lines 17-19). Each data indicator (298, 302) that includes a data indicator including data representative of an amount of currency in the cassette (e.g., page 58, lines 1-5, 11-14, and 20-22). Each automated banking machine (10) includes at least one cassette reader that is operative to remotely read the data of a data indicator without contact therebetween (e.g., page 53, lines 9-14, 17-18, and 20-21; page 55, lines 4-16; page 58, lines 4-5). The at least one cassette reader is in operative connection with the ATM computer (e.g., page 53, lines 11-14; page 55, lines 7-8; page 58, lines 4-5). Each ATM computer is operative to communicate currency amount information to the host computer (e.g., page 58, lines 17-22). The host computer is operative to determine the amount of currency in the network in real time (e.g., page 58, lines 15-16).

(vi) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1 and 45-63 are unpatentable pursuant to 35 U.S.C. § 103(a) over
Coutts (US 5,563,393) in view of Haycock (US 6,065,672).

(vii)

ARGUMENT

The Applicable Legal Standards

Before a claim may be rejected on the basis of obviousness pursuant to 35 U.S.C. § 103, the Patent Office bears the burden of establishing that all the recited features of the claim are known in the prior art. This is known as *prima facie* obviousness. To establish *prima facie* obviousness, it must be shown that all the elements and relationships recited in the claim are known in the prior art. If the Office does not produce a *prima facie* case, then the Appellants are under no obligation to submit evidence of nonobviousness. MPEP § 2142.

The teaching, suggestion, or motivation to combine the features in prior art references must be clearly and particularly identified in such prior art to support a rejection on the basis of obviousness. It is not sufficient to offer a broad range of sources and make conclusory statements. *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

Even if all of the features recited in the claim are known in the prior art, it is still not proper to reject a claim on the basis of obviousness unless there is a specific teaching, suggestion, or motivation in the prior art to produce the claimed combination. *Panduit Corp. v. Denison Mfg. Co.*, 810 F.2d 1561, 1568, 1 USPQ2d 1593 (Fed. Cir. 1987). *In re Newell*, 891 F.2d 899, 901, 902, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989).

Evidence of record must teach or suggest the recited features. An assertion of knowledge and common sense not based on any evidence in the record lacks substantial evidence support. *In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001). Patentability determination must be based on evidence of record. *In re Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002).

It is respectfully submitted that the Action from which this appeal is taken does not meet these burdens.

**The Claims Are Not Obvious Over
Coutts in view of Haycock**

Claims 1 and 45-63 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Coutts in view of Haycock.

The (final) Action alleges that Coutts teaches terminals in the form of ATMs (10), with each ATM (10) including currency cassettes (col. 6, lines 8-10), and with each currency cassette including a data indicator (sensors 42, 44). The ATM (10) is further alleged to include a cassette reader (CPU 45). (Coutts' interface device 12 was previously relied upon as the cassette reader in the Office Action dated July 14, 2004). The Action further alleges that the CPU (45) then transmits data wirelessly to an interface device (12) via a modem and an RF transceiver for "remotely reading the data of a data indicator" (22-44). The Action (on page 3, lines 5-6, and page 8, last paragraph) admits that Coutts does not teach or suggest tracking the amount of currency in at least one of the ATMs in real time.

The Action alleges that Haycock teaches a cassette (100) with a smart card (110). The Action further alleges that in view of Haycock, it would have been obvious to "employ a real time currency tracking cassette" in Coutts.

Appellants respectfully traverse the Action's alleged teachings of Coutts and Haycock. The rejections lack the necessary evidence of record and rationale. There is no teaching, suggestion, or motivation in the applied references to modify Coutts in view of Haycock to

produce the recited invention. Even if it were somehow possible (which it isn't) to modify Coutts with the teaching of Haycock as alleged, the record still would not factually support a *prima facie* conclusion of obviousness.

Claim 1

Claim recites an automated banking machine network, with each automated banking machine including currency cassettes and at least one cassette reader. Each automated banking machine currency cassette includes at least one data indicator that includes data representative of a characteristic of cassette currency. The at least one cassette reader of an automated banking machine is operative to remotely read the data of a currency cassette data indicator without contact therebetween. The automated banking machine network is operative to track the amount of currency in at least one of the automated banking machines.

The references do not teach or suggest the recited cassette reader/cassette indicator relationship

Briefly, the Appellants respectfully submit that the references, taken alone or in combination, do not teach or suggest (at least) an automated banking machine having a cassette reader and a currency cassette with a data indicator, especially where the cassette reader can "remotely read" the currency cassette's data indicator "without contact" between the reader and the data indicator. It follows that the Office has not established a *prima facie* showing of obviousness. More detailed arguments follow.

The Appellants disagree with the interpretation the Office has attributed to Coutts. Coutts does not teach or suggest an automated banking machine cassette reader that is operative to *remotely read* the data of a cassette data indicator without contact therebetween. The Action

(at the paragraph bridging pages 7 and 8) alleges that Coutts' currency low sensors (44) within an ATM "read, sense, or detect at least one *signal* generated from a currency cassette." This allegation is based on the assumption that "data indicating the level of currency supplied in each cassette *has to* come from the currency cassette" (Action page 8, lines 1-2). The Appellants respectfully disagree. Coutts' currency low sensor (44) constitutes neither the recited currency cassette data indicator nor the recited cassette reader. The only "reader" mentioned by Coutts is a card reader (col. 6, lines 6-9) that apparently can read a user's ATM card inserted into the ATM.

The Appellants respectfully disagree with the Action's assumption that data indicating the level of currency in a cassette *has to* come from the cassette. Coutts does not specifically teach or suggest a cassette including a data indicator. Where does a cassette (instead of the ATM) in Coutts include the present sensor (42) or the low sensor (44)? Contrarily, Coutts teaches that both the present sensor (42) and the currency low sensor (44) are "positioned within the ATM" (col. 3, last line to col. 4, first line). Coutts is silent as to how a currency low sensor (44) operates. What teaching prevents Coutts' currency low sensor (44) from being a sensor located in the ATM and separate from the cassette, which mechanically trips after a certain number of currency notes have been taken from a new cassette? For example, Coutts' reader sensor (40) counts the total number of times the card reader is used (col. 6, lines 6-9). Also note Haycock's optical reading of notes after they are removed from a cassette. Coutts does not teach or suggest that a cassette includes a data indicator. However, claim 1 recites that the currency cassette *includes* the data indicator.

The Appellants also respectfully disagree with the Action's allegation that Coutts' low sensors (44) "read, sense, or detect at least one *signal* generated from a currency cassette." There is no teaching or suggestion in Coutts of a cassette generating a readable signal, as alleged.

Even if the Action's allegation and assumption were valid (which they aren't) and it was somehow possible (which it isn't) for Coutts to teach the alleged "read, sense, or detect" feature, there is still no evidence of record that the "read, sense, or detect" feature would occur remotely without contact, as recited. As previously discussed, Coutts is silent as to how a currency low sensor (44) operates. The Office has provided no evidence that Coutts' currency cassettes generate a readable "signal" that is *remotely read* by a currency low sensor (44). Coutts does not teach or suggest *remotely* reading a cassette indicator with a reader in an ATM *without contact therebetween*, as alleged. The unsupported allegation in the Action is based on pure speculation. The record lacks substantial evidence support for the rejection. *In re Zurko*, supra. *In re Lee*, supra. Appellants have shown that Coutts' currency low sensor (44) cannot constitute Appellants' recited currency cassette data indicator or the recited cassette reader.

Furthermore, contrary to the Action's allegations, a conventional currency cassette uses direct *mechanical* means (with physical contact) to communicate a low currency level to an ATM. For example, note U.S. Patent No. 4,871,085, which is discussed in Appellants' Specification (e.g., at pages 36, 39, and 52) with regard to a cassette having mechanical contact indicator buttons.

Furthermore, Coutts' CPU (45) cannot constitute Appellants' recited cassette reader. Claim 1 recites that the "cassette reader is operative to remotely read the data of a data indicator." The CPU (45) does not *read* the data of a data indicator. Nor does the CPU (45) "remotely read

the data of a data indicator without contact therebetween." The Examiner confuses "reading data" with "receiving read data." Even the Action (at page 2, last two lines) admits that the CPU (45) "collects and processes data *read*/detected by sensors 22-24." Thus, the CPU (45) cannot constitute the recited cassette reader.

Furthermore, Coutts' interface device (12) cannot constitute the recited cassette reader. Coutts does not teach or suggest that the interface device (12) reads data from a cassette's data indicator. The Advisory Action admits that Coutts' interface device (12), like the CPU (45), *receives* signals sensed by the sensors 22-24 and *receives* signals necessary to operate the ATM. If the interface device (12) receives signals in a manner similar to the CPU (45), then it also cannot be the cassette reader. Not only does the interface device (12) not *read* the data of a data indicator, but it is also "separate from" the ATM (col. 2, lines 31-34). However, claim 1 recites that it is the automated banking machine that *includes* the cassette reader. Thus, the interface device (12) cannot constitute the recited cassette reader. It follows that the Action's allegation that "the interface device 12 reads data from a cassette's data indicator" is without merit.

The Action relies on Coutts for allegedly teaching the recited cassette reader/cassette indicator relationship. In any event, Haycock cannot alleviate the deficiencies of Coutts as it does not teach or suggest the recited features which are not found in Coutts. For example, Haycock (like Coutts) does not teach or suggest an automated banking machine cassette reader that can remotely read data from a currency cassette data indicator without contact therebetween. Haycock teaches that data from a smart card (110) is uploaded *after* the cassette (100) is removed from the ATM (col. 6, lines 51-53; col. 7, lines 47-50; col. 4, lines 19-23). However, claim 1 specifically recites that it is the automated banking machine that *includes* the cassette reader (and

the cassette). Furthermore, Haycock requires contact (via a coupling device 115) with the smart card (110) in order to upload data therefrom (col. 5, lines 63-67; col. 8, 20-23).

Thus, the references, taken alone or in combination, do not teach or suggest the recited apparatus. A *prima facie* case of obviousness has not been established. Even if it were somehow possible (which it isn't) to have modified Coutts with the teaching of Haycock as alleged, the result still would not have produced the recited invention.

The references do not teach or suggest the recited automated banking machine network

The Action (on page 2) states that "Coutts discloses a business system including a plurality of terminals in the form of ATMs 10. Furthermore, system is defined as a network of related computer software, hardware, and transmission devices." The Action (on page 7) states that Coutts "discloses that there is shown in Fig. 1 a business system including a plurality of terminals, in the form of ATMs (10), and an operator interface device 12, in the form of an adapted note pad personal computer. The word *system* is defined as a network of related computer software, hardware, and data transmission devices (dictionary.com). Accordingly, the examiner interprets that Coutts' reference anticipates the claimed ATM network."

The Appellants respectfully disagree. There is no evidence of record that Coutts teaches or suggests an ATM *banking* network, as alleged. Where does Coutts even mention the term "network"? Nor is it reasonable for the Examiner to allege that every "system" includes an "ATM network," especially an ATM *banking* network. One skilled in the art would understand what constitutes an ATM banking network. The Appellants' Specification (at page 58, line 10) also indicates that "An automated banking machine can be operatively connected to other

machines on a network (e.g., an ATM banking network, which may include the Internet)." The Microsoft Computer Dictionary (e.g., 5th ed.) defines a "network" as "a group of computers and associated devices that are connected by communication facilities . . . can be as small as a LAN (local area network) . . . or it can consist . . . over a vast geographic area (WAN or wide area network)." Additionally, for the record, the Microsoft Computer Dictionary does *not* define a "system" as including a network, especially an ATM banking network. Accordingly, the relied upon "business system" in Coutts is a far cry from an ATM banking network. The Office's attempt to read into Coutts a feature that is absent therefrom is without merit.

There are additional reasons why Coutts does not teach or suggest an ATM banking network, as alleged. Coutts' Figure 1 appears to show ATMs (10) and an interface device (12) in an ATM maintenance enclosure, with the enclosure having a *door*. Coutts indicates that his RF range limits the position of the interface device (12) to "no more than a predetermined distance" (col. 2, lines 36-37) from the ATMs (col. 2, lines 31-42). Thus, all of Coutts' ATMs (10) appear to be located in the same maintenance facility, otherwise the RF range could not permit "communication between the interface device 12 and *the* ATMs 10" (col. 2, lines 43-45). It is unclear how Coutts' ATMs (10) can be part of an ATM banking network after the ATMs have been removed from their customer operating location and transferred to an ATM servicing facility.

Appellants respectfully submit that the alleged reference "dictionary.com" does not constitute prior art to the recited invention. No evidence has been provided that the relied upon dictionary reference (while having the definition accorded thereto) has a publication date earlier than Appellants' filing date (or earlier than Coutts' filing date). Nor has any evidence been

provided that the relied upon definition is the most pertinent (or the only) definition provided by the alleged reference "dictionary.com." Again, the record lacks substantial evidence support for the rejection. *In re Zurko*, supra. *In re Lee*, supra. Thus, Appellants have shown that Coutts does not teach or suggest the recited "automated banking machine network." Appellants request that the relied upon reference "dictionary.com" be made of record.

The Action relies on Coutts (not Haycock) for allegedly teaching the recited automated banking machine network. In any event, Haycock cannot alleviate the deficiencies of Coutts as it does not teach or suggest the recited features which are not found in Coutts. Haycock is directed to the circulation history of individual notes. That is, Haycock can track a single note through its individual circulation history. Where does Haycock specifically teach or suggest an automated banking machine network including a plurality of automated banking machines, each having a cassette data indicator and a cassette reader? Also, Haycock teaches that data from a smart card (110) is uploaded *after* the cassette (100) is removed from the ATM (col. 6, lines 51-53; col. 7, lines 47-50; col. 4, lines 19-23). That is, Haycock does not need an ATM network to collect data. Thus, the references, taken alone or in combination, do not teach or suggest the recited apparatus. *A prima facie* case of obviousness has not been established.

The references do not teach or suggest an automated banking machine network that can track the amount of currency in an automated banking machine

The Action (on page 3, lines 5-6, and page 8, last paragraph) admits that Coutts does not teach or suggest a network that can track the amount of currency in an ATM. The Action relies on Haycock for the teaching. However, Haycock cannot alleviate the admitted deficiency in

Coutts. Haycock (like Coutts) also does not teach or suggest the ability of an automated banking machine network to track the amount of currency *in* an automated banking machine.

Haycock's smart card (110) is for tracking the circulation history of individual notes, regardless of ATM usage, not the amount of currency in an ATM. As previously discussed, Haycock teaches that data from a smart card (110) is uploaded *after* the cassette (100) is removed from the ATM (col. 6, lines 51-53; col. 7, lines 47-50; col. 4, lines 19-23). However, claim 1 refers to the network being operative to track the amount of currency in the automated banking machine. Haycock does not teach or suggest tracking the amount of currency in an ATM, especially by using a currency cassette located outside of the ATM. Also, it is likely in Haycock that any removed cassette was immediately replaced, and the ATM operated again before any data could even be obtained from the removed cassette. This scenario further teaches away from Haycock tracking the amount of currency in an ATM.

Furthermore, Haycock specifically teaches that only a portion (i.e., a sample population) of currency notes are being tracked (col. 2, lines 16-18; col. 5, lines 45-48). Haycock is directed to using only a *sample* population of notes in order to make statistical determinations regarding models and patterns involving the entire currency population. That is, Haycock uses only a small sample portion of the total available currency. Haycock does not have the ability to track every note (and thus the amount of currency) in an ATM. Nor does Haycock need to track the amount of currency in an ATM. Haycock's use of only a sample population of trackable notes further teaches away from Haycock tracking the amount of currency in an ATM.

Furthermore, Appellants respectfully submit that not all of the notes in Haycock's sample population even have to enter an ATM. Haycock teaches that a "note could just as likely have

first been distributed through an individual teller's cash drawer at the financial institution 40" (col. 6, lines 57-59) or the "note might also have first been distributed to one of the bank's commercial accounts" (col. 6, lines 66-67). Thus, the history of a note could include no ATM usage whatsoever. It follows that in Haycock there is no correlation between tracking individual notes and tracking the amount of currency *in* an ATM. Haycock's tracking of notes not even in an ATM further teaches away from Haycock tracking the amount of currency in an ATM.

Even if it were somehow possible (which it isn't) to have modified Coutts with the teaching of Haycock as alleged, the result still would not have enabled Coutts with a network having the ability to track the amount of currency *in* an ATM.

Conclusion of Claim 1 Remarks

The relied upon references, taken alone or in combination, do not teach or suggest the recited apparatus. The references are devoid of any teaching, suggestion, or motivation for combining features thereof to produce the recited invention. The only suggestion for the recited features and relationships in claim 1 is found in Appellants' own novel disclosure. It follows that the rejections are based solely on hindsight reconstruction of Appellants' claimed invention, which is legally impermissible and does not constitute a valid basis for a finding of obviousness. *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992).

The Office has not established a *prima facie* showing of obviousness. The record lacks substantial evidence support for the rejection. *In re Zurko*, supra. *In re Lee*, supra. Additionally, it would not have been obvious to one having ordinary skill in the art to have combined the references as alleged. Even if it were somehow possible (which it isn't) to have modified Coutts

with the teaching of Haycock as alleged, the result still would not have produced the recited invention. The many previously discussed and admitted deficiencies in Coutts would still remain.

Appellants respectfully submit that they have provided sufficient reasons to refute the Office's allegation of *prima facie* obviousness. Thus, Appellants further respectfully submit that the rejection of claim 1 is improper and should be withdrawn.

Claim 45

The references, taken alone or in combination, further do not teach or suggest a network that can track the amount of currency in *each* automated banking machine in the network. The relied upon col. 1, lines 5-10 of Haycock does not teach or suggest the recited feature. As previously discussed, Haycock is directed to the tracking of single notes, each through its own individual circulation history. Even the relied upon section of Haycock singularly refers to the "tracking of a currency." Also, as previously discussed, Haycock uses only a small sample portion of the total available currency. It follows that Haycock can't track the amount of currency in every automated banking machine in a network. The Office has not established a *prima facie* showing of obviousness.

Claim 46

Claim 46 depends from claim 45/1. The references, taken alone or in combination, further do not teach or suggest a network that can determine the amount of currency in the network. The relied upon col. 2, lines 43-60 of Haycock does not teach or suggest the recited feature. As previously discussed, Haycock is directed to the circulation history of individual notes. Haycock is directed to neither determining the amount of currency in a single automated

banking machine nor determining the amount of currency in a network of automated banking machines. Also, as previously discussed, Haycock uses only a small sample portion of the total available currency. It follows that Haycock can't determine the amount of currency in an automated banking machine network. A *prima facie* case of obviousness hasn't been established.

Claim 47

Claim 47 depends from claim 46/45/1. The claim indicates that the network can track the amount of currency in each automated banking machine in the network (claim 45), determine the amount of currency in the network (claim 46), and provide the currency information in real time (claim 47). The references, taken alone or in combination, do not teach or suggest providing the amount of currency in a network of automated banking machines in real time.

The relied upon section (col. 5, lines 45+) of Haycock is directed to providing real time data on a *sample* population of notes in order to make statistical determinations regarding models and patterns involving the entire currency population. That is, Haycock uses only a small sample portion of the total available currency. It follows that Haycock can't provide the amount of currency in a network in real time. The Office has not established a *prima facie* showing of obviousness.

Claim 48

The Office alleges that Haycock's centralized data management system (col. 4, lines 22-26) comprises a computer in a network of ATMs. The Appellants respectfully disagree. There is no evidence of record that Haycock teaches or suggests an ATM banking network, as alleged. Haycock teaches that data from a smart card (110) is uploaded *after* the cassette (100) is removed from the ATM (col. 6, lines 51-53; col. 7, lines 47-50; col. 4, lines 19-23). That is, Haycock

does not need an ATM network to collect data. It follows that Haycock's centralized data management system doesn't constitute a computer in a network of ATMs, as alleged. A *prima facie* case of obviousness hasn't been established.

Claim 49

Claim 49 depends from claim 48/1. For reasons previously discussed, the references don't even teach or suggest a network of automated banking machines. It follows that the references, taken alone or in combination, do not teach or suggest each automated banking machine in a network including a computer. As previously discussed, Coutts' CPU (45) appears to be in a service building. The Office has not established a *prima facie* showing of obviousness.

Claim 50

Claim 50 depends from claim 49/48/1. The references, taken alone or in combination, further do not teach or suggest an automated banking machine network that permits communication with each automated banking machine. The relied upon Figure 4 of Coutts shows artificial representations of ATMs on the screen (16) of the interface device (12). Again, the Office has not established a *prima facie* showing of obviousness.

Claim 51

Claim 51 depends from claim 50/49/48/1. The references, taken alone or in combination, further do not teach or suggest an automated banking machine network that permits Internet communication. The Action's allegation of Internet ATMs is not based on any prior art evidence in the record. That is, the record lacks substantial prior art evidence support for the rejection. *In re Zurko*, supra. *In re Lee*, supra. The Office has not established a *prima facie* showing of obviousness.

Claim 52

The references, taken alone or in combination, further do not teach or suggest that the at least one data indicator (claim 1) includes data representative of the value of currency in a cassette. The Action (on page 2) previously relied upon Coutts' sensors (42, 44) as the data indicator. The Action now relies on Haycock's color coding of cassettes. However, Haycock does not use a cassette reader (claim 1) to read the color of a cassette. The Office has not established a *prima facie* showing of obviousness.

Claim 53

The references, taken alone or in combination, further do not teach or suggest that the at least one data indicator (claim 1) includes data representative of the amount of currency in a cassette. The Action (on page 2) previously relied upon Coutts' sensors (42, 44) as the data indicator. The Action now relies on Haycock's "tracking of individual notes" (col. 4, lines 33-42). However, claim 1 recites that a cassette includes the data indicator. Haycock does teach or suggest a cassette with data indicator data representative of the amount of currency in the cassette. The Office has not established a *prima facie* showing of obviousness.

Claim 54

The references, taken alone or in combination, further do not teach or suggest a cassette reader that can remotely read the data of a data indicator using a radio frequency. As previously discussed, Coutts does teach or suggest either a cassette with a data indicator or a cassette reader. As previously discussed (e.g., claim 1 remarks), an automated banking machine does not include the relied upon interface device (12) (which is a note pad personal computer) of Coutts. Thus,

the interface device (12) cannot constitute the recited cassette reader. The Office has not established a *prima facie* showing of obviousness.

Claim 55

Appellants' remarks in support of the patentability of claim 1 are incorporated herein by reference. For reasons previously discussed, the relied upon references, taken alone or in combination, do not teach or suggest the recited method.

As previously discussed, the references do not teach or suggest an automated banking machine network including a plurality of automated banking machines. As previously discussed, there is no evidence of record that Coutts teaches or suggests an ATM banking network, as alleged. Where does Coutts even mention the term "network"? Nor is it reasonable for the Examiner to allege that every "system" includes an "ATM network," especially by dictionary definition. As previously discussed, Haycock is directed to the circulation history of individual notes. That is, Haycock can track a single note through its individual circulation history. Where does Haycock specifically teach or suggest an automated banking machine network including a plurality of automated banking machines? It follows that the references do not teach or suggest step (a).

As previously discussed, the references also do not teach or suggest "remotely reading the data of the data indicators of at least one automated banking machine" (i.e., step b). Coutts does not teach or suggest a cassette including a data indicator. Nor does Coutts teach or suggest remotely reading a cassette's data indicator. Appellants have already shown that Coutts' currency low sensor (44) does not constitute a currency cassette data indicator, nor does Coutts remotely

read a cassette's data indicator. Appellants have also shown that neither of Coutts' CPU (45) nor interface device (12) remotely read a data indicator of a cassette.

As previously discussed, Haycock (like Coutts) does not teach or suggest remotely reading data from a currency cassette data indicator of an automated banking machine. Haycock requires contact (via a coupling device 115) with the smart card (110) in order to upload data therefrom (col. 5, lines 63-67; col. 8, 20-23). Haycock requires a smart card (110) to be removed from the ATM before obtaining data therefrom (col. 6, lines 51-53; col. 7, lines 47-50; col. 4, lines 19-23).

As previously discussed, the references also do not teach or suggest "determining the amount of currency in at least one of the automated banking machines" (i.e., step c). The Action (on page 3, lines 5-6, and page 8, last paragraph) admits that Coutts does not teach or suggest determining the amount of currency in an ATM. For reasons previously discussed, Haycock also does not teach or suggest determining the amount of currency in an ATM. Haycock's smart card (110) is for tracking the circulation history of individual notes, not for determining the amount of currency in an ATM. Data from Haycock's smart card (110) is obtained *after* the cassette (and its currency) has already been removed from the ATM (col. 6, lines 51-53; col. 7, lines 47-50; col. 4, lines 19-23), with the ATM likely operated with a new cassette before any data could even be obtained from the removed cassette. Furthermore, Haycock does not have the ability to determine every note (and thus the amount of currency) in an ATM because only a portion (i.e., sample population) of currency notes are being tracked (col. 2, lines 16-18; col. 5, lines 45-48). Even if it were somehow possible (which it isn't) to have modified Coutts with the teaching of

Haycock as alleged, the result still would not have enabled Coutts to determine the amount of currency in an automated banking machine.

The Office has not established a *prima facie* showing of obviousness. It would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention. Thus, Appellants respectfully submit that the rejection of claim 55 is improper and should be withdrawn.

Claim 56

As previously discussed, the references do not teach or suggest remotely reading the data from a data indicator of a single automated banking machine. It follows that the references, taken alone or in combination, cannot teach or suggest remotely reading the data of each data indicator of each automated banking machine in a network of automated banking machines. Again, the Office has not established a *prima facie* showing of obviousness.

Claim 57

Claim 57 depends from claim 56/55. The references, taken alone or in combination, further do not teach or suggest remotely reading the data of each data indicator of each automated banking machine in a network of automated banking machines (claim 56) and determining the amount of currency in each of the automated banking machines using the read data (claim 57). The relied upon section (col. 1, lines 5-10) of Haycock doesn't teach or suggest determining the amount of currency in each automated banking machine in a network. A *prima facie* case of obviousness hasn't been established.

Claim 58

Claim 58 depends from claim 57/56/55. It follows that the references, taken alone or in combination, further do not teach or suggest remotely reading the data of each data indicator of each automated banking machine in a network of automated banking machines (claim 56), determining the amount of currency in each of the automated banking machines using the read data (claim 57), and determining the amount of currency in the network. The relied upon section (col. 2, lines 43-60) of Haycock doesn't teach or suggest determining the amount of currency in an automated banking machine network. The Office has not established a *prima facie* showing of obviousness.

Claim 59

Claim 59 depends from claim 58/57/56/55. It follows that the references, taken alone or in combination, further do not teach or suggest remotely reading the data of each data indicator of each automated banking machine in a network of automated banking machines (claim 56), determining the amount of currency in each of the automated banking machines using the read data (claim 57), determining the amount of currency in the network (claim 58), and tracking the amount of currency in the network in real time (claim 59). The relied upon section (col. 2, lines 43-60) of Haycock doesn't teach or suggest tracking the amount of currency in an automated banking machine network in real time. The Office has not established a *prima facie* showing of obviousness.

Claim 60

As previously discussed (e.g., claim 1 remarks), the references, taken alone or in combination, do not teach or suggest an automated banking machine network, where each

automated banking machine includes at least one cassette reader, and where the at least one cassette reader is operative to remotely read the data of a data indicator *without contact* therebetween. As previously discussed (e.g., claim 1 remarks), Coutts' interface device (12) does not constitute a cassette reader, and Coutts' sensors (42, 44) do not constitute a data indicator. The Office has not established a *prima facie* showing of obviousness.

Claim 61

Claim 61 depends from claim 60/55. As previously discussed, the references, taken alone or in combination, do not teach or suggest an automated banking machine network, where each automated banking machine includes at least one cassette reader that is operative to remotely read the data of a data indicator using radio frequency. As previously discussed (e.g., claim 1 remarks), Coutts' interface device (12) does not constitute a cassette reader, and Coutts' sensors (42, 44) do not constitute a data indicator. The Office has not established a *prima facie* showing of obviousness.

Claim 62

The references, taken alone or in combination, further do not teach or suggest an automated banking machine network including a host computer, where each automated banking machine includes a computer. It follows that the references, taken alone or in combination, further do not teach or suggest communicating between the host computer and at least one automated banking machine computer.

The relied upon section (col. 4, lines 22-26) of Haycock doesn't teach or suggest an automated banking machine network host computer. Nor does Haycock's centralized data management system constitute a host computer in a network of ATMs, as alleged. Haycock

teaches that data from a smart card (110) is uploaded *after* the cassette (100) is removed from the ATM (col. 6, lines 51-53; col. 7, lines 47-50; col. 4, lines 19-23). Even the Action (page 7, lines 1-2) admits that the centralized data management system can be in communication with a currency management system other than ATMs. That is, Haycock does not need a network host computer to communicate with ATMs to collect data. Again, the references do not teach or suggest communication between a network host computer and a computer of an automated banking machine in the network. Again, the Office has not established a *prima facie* showing of obviousness.

Claim 63

Appellants' remarks in support of the patentability of claims 1 and 55 are incorporated herein by reference. For reasons previously discussed, the relied upon references, taken alone or in combination, do not teach or suggest the recited apparatus. As previously discussed, the references do not teach or suggest a cassette including a data indicator where an ATM cassette reader can remotely read the data of the cassette data indicator without contact therebetween, and a network (including ATMs) that can track the amount of currency in an ATM.

For reasons previously discussed, the references do not teach or suggest determining the amount of currency in a single ATM. It follows, with regard to claim 63, that the references cannot teach or suggest determining the amount of currency in a network of plural ATMs, especially in real time. More detailed reasons as to why the references do not teach or suggest the recited features and relationships of claim 63 follow.

Appellants respectfully submit that the references do not teach or suggest an ATM network including a host computer. Nor do the references teach or suggest a cassette data

indicator including data representative of an *amount* of currency in a cassette of an ATM. Nor do the references teach or suggest an ATM computer in operative connection with an ATM cassette reader which can remotely read the data of the cassette data indicator without contact therebetween. Nor the ATM computer also being operative to communicate currency amount information to the host computer, which can determine the amount of currency in the *network* in *real time*.

The references do not teach or suggest a host computer with the ability to determine the amount of currency in an ATM network in real time. Where do the references even mention a "host computer", especially a host computer in an ATM network?

Where do the references teach or suggest a currency cassette in an ATM, where the cassette has a data indicator with data representative of the *amount* of currency in the cassette? Where do the references teach or suggest an ATM cassette reader which can remotely read the currency *amount* data from the cassette data indicator without contact therebetween? Where do the references discuss an ATM computer communicating currency *amount* information, especially to a host computer? The record lacks substantial evidence support for the rejection. *In re Zurko*, supra. *In re Lee*, supra.

The Action admits that Coutts does not teach or suggest determining the amount of currency in an *ATM* in real time (Action page 3, lines 5-6, and page 8, last paragraph). By inference the Action further admits that Coutts does not teach or suggest determining the amount of currency in an ATM *network* (which includes a plurality of ATMs) in real time.

For reasons previously discussed, Haycock also does not teach or suggest determining the amount of currency in an ATM in real time, let alone a network of ATMs. Haycock's smart card

(110) is for tracking the circulation history of individual notes, not for determining the amount of currency in an ATM network. That is, Haycock is directed to the tracking of single notes, each through its own individual circulation history. Smart card data in Haycock indicates individual note history data. Further, this smart card data is obtained *after* the cassette (and its currency) has already been removed from the ATM, voiding the ability to determine the amount of currency in an ATM or an ATM network, especially in real time. Additionally, Haycock's use of only a sample population of currency further prevents any ability to determine every note (and thus the amount of currency) in an ATM and in a network of ATMs in real time.

Even if it were somehow possible (which it isn't) to have modified Coutts with the teaching of Haycock as alleged, the result still would not have provided Coutts with a host computer that can determine the amount of currency in an ATM network in real time. The many previously discussed and admitted deficiencies in Coutts would still remain.

Again, the references are devoid of any teaching, suggestion, or motivation for combining features thereof to produce the recited invention. The only suggestion for the recited features and relationships in claim 63 is found in Appellants' own novel disclosure. It follows that the rejections are based solely on hindsight reconstruction of Appellants' claimed invention, which is legally impermissible and does not constitute a valid basis for a finding of obviousness. *In re Fritch*, supra. The record lacks substantial evidence support for the rejection. *In re Zurko*, supra. *In re Lee*, supra.

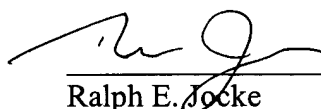
The Office has not established a *prima facie* showing of obviousness. It would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to

have produced the recited invention. Thus, Appellants further respectfully submit that the rejection of claim 63 is improper and should be withdrawn.

CONCLUSION

Each of Appellants' pending claims specifically recites features and relationships that are neither disclosed nor suggested in any of the applied prior art. Furthermore, the applied prior art is devoid of any teaching, suggestion, or motivation for combining features of the applied prior art so as to produce the recited invention. For these reasons it is respectfully submitted that all the pending claims are allowable.

Respectfully submitted,



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(viii)

CLAIMS APPENDIX

1. An apparatus including:

an automated banking machine network,

wherein the network includes a plurality of automated banking machines,

wherein each automated banking machine includes a plurality of
currency cassettes,

wherein each cassette is operative to hold currency therein,

wherein each cassette includes at least one data indicator,

wherein each data indicator includes data
representative of a characteristic of cassette
currency,

wherein each automated banking machine includes at least one
cassette reader,

wherein the at least one cassette reader is operative to
remotely read the data of a data indicator without contact
therebetween,

wherein the network is operative to track the amount of currency in at least
one of the automated banking machines.

- 45. The apparatus according to claim 1 wherein the network can track the amount of currency in each automated banking machine in the network.
- 46. The apparatus according to claim 45 wherein the network can determine the amount of currency in the network.
- 47. The apparatus according to claim 46 wherein the network is operative to provide currency information in real time.
- 48. The apparatus according to claim 1 wherein the network includes at least one computer.
- 49. The apparatus according to claim 48 wherein each automated banking machine includes at least one computer.

50. The apparatus according to claim 49 wherein the network is operative to communicate with each automated banking machine.
51. The apparatus according to claim 50 wherein the communication involves the Internet.
52. The apparatus according to claim 1 wherein at least one data indicator includes data representative of the value of currency in a cassette.
53. The apparatus according to claim 1 wherein at least one data indicator includes data representative of the amount of currency in a cassette.
54. The apparatus according to claim 1 wherein the at least one cassette reader is operative to remotely read the data of a data indicator using a radio frequency.
55. A method including:
 - (a) providing an automated banking machine network including a plurality of automated banking machines, wherein each automated banking machine includes a plurality of currency cassettes, wherein each cassette includes at least one data indicator, wherein each data indicator includes data representative of a characteristic of cassette currency;

- (b) remotely reading the data of the data indicators of at least one automated banking machine;
 - (c) determining the amount of currency in at least one of the automated banking machines.
56. The method according to claim 55 wherein (b) includes remotely reading the data of each data indicator of each automated banking machine.
57. The method according to claim 56 wherein (c) includes determining the amount of currency in each of the automated banking machines using the data read in (b).
58. The method according to claim 57 and further including
- (d) determining the amount of currency in the network.
59. The method according to claim 58 wherein (d) includes tracking the amount of currency in the network in real time.

60. The method according to claim 55 wherein each automated banking machine includes at least one cassette reader, wherein the at least one cassette reader is operative to remotely read the data of a data indicator without contact therebetween, and wherein (b) includes remotely reading the data of each data indicator of each automated banking machine without contact between a data indicator and a cassette reader.
61. The method according to claim 60 wherein the at least one cassette reader is operative to remotely read the data of a data indicator using radio frequency, and wherein (b) includes remotely reading the data of each data indicator of each automated banking machine using radio frequency.
62. The method according to claim 55 wherein the network includes a host computer, wherein each automated banking machine includes a computer, and further including
- (d) communicating between the host computer and at least one automated banking machine computer.

63. Apparatus including:

an automated teller machine ("ATM") network,

wherein the network includes a host computer,

wherein the network includes a plurality of ATMs,

wherein each ATM includes an ATM computer,

wherein each ATM includes a plurality of currency cassettes,

wherein each cassette is operative to hold currency therein,

wherein each cassette includes at least one data indicator,

wherein each cassette includes a data indicator

including data representative of an amount of

currency in the cassette,

wherein each ATM includes at least one cassette reader,

wherein the at least one cassette reader is operative to
remotely read the data of a data indicator without contact
therebetween,

wherein the at least one cassette reader is in operative
connection with the ATM computer,

wherein each ATM computer is operative to communicate
currency amount information to the host computer,

wherein the host computer is operative to determine the amount of
currency in the network in real time.



(ix)

EVIDENCE APPENDIX

(None)



(x)

RELATED PROCEEDINGS APPENDIX

(None)